

TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL

1. TRANSMITTAL NUMBER

2. STATE

03-37

New York

FOR: HEALTH CARE FINANCING ADMINISTRATION

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE
SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR
HEALTH CARE FINANCING ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE
July 1, 2003

5. TYPE OF PLAN MATERIAL (Check One):

☐ NEW STATE PLAN ☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN ☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION:
42 CFR, Part 447, Subpart F

7. FEDERAL BUDGET IMPACT:
a. FFY 2002 - 2003 (\$12.37 million)
b. FFY 2003 - 2004 (\$53.52 million)

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

Attachment 3.1-A, Supplement Page 3
Attachment 3.1-B, Supplement Page 3
Attachment 4.19-B, Page 4(d)

9. PAGE NUMBER OF THE SUPERSEDED PLAN
SECTION OR ATTACHMENT (If Applicable):

Attachment 3.1-A, Supplement Page 3
Attachment 3.1-B, Supplement Page 3
Attachment 4.19-B, Page 4(d)

10. SUBJECT OF AMENDMENT:

Pharmacy Reimbursement for Prescription Drugs - Average Wholesale Price (AWP-12%)

11. GOVERNOR'S REVIEW (Check One):

☐ GOVERNOR'S OFFICE REPORTED NO COMMENT
☒ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

☐ OTHER, AS SPECIFIED:

12. SIGNATURE OF STATE AGENCY OFFICIAL:

Sandra Pethinato for KK

13. TYPED NAME: Kathryn Kuhmerker

14. TITLE: Deputy Commissioner
Department of Health

15. DATE SUBMITTED:

September 18, 2003

16. RETURN TO:

New York State Department of Health, Corning
Tower, Empire State Plaza, Albany, New York
12237

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED: SEP 23 2003

18. DATE APPROVED: JAN 23 2004

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL: JUL 01 2003

20. SIGNATURE OF REGIONAL OFFICIAL:

Sue Kelly

21. TYPED NAME:

Sue Kelly

22. TITLE: Associate Regional Administrator
Division of Medicaid and State Operations

23. REMARKS:

OFFICIAL

10. Prior approval is required for all dental care except preventive prophylactic and other routine dental care services and supplies.
- 12a. Prior authorization or dispensing validation is required for some prescription drugs. In addition, brand-name drugs that have a FDA approved, A-rated generic equivalent must be prior authorized unless exempted by the Commissioner of Health.

Drugs for which Medical Assistance reimbursement is available are limited to the following:

1. those non-prescription drugs contained on a list established by the New York State Commissioner of Health.
 - [2. those prescription drugs contained on a list established by the New York State Commissioner of Health.]
 - [3]2. covered outpatient drugs of any manufacturer which has entered into and complies with an agreement under Sections 1902(a) (54) and 1927 (a) of the Act which are prescribed for a medically accepted indication. (As provided by Section 1927 (d) of the Act certain outpatient drugs may be excluded from coverage).
- 12b. Prior approval is required for all dentures.
- 12c. Prior approval is required for prosthetic and orthotic devices over a dollar amount established by the State Department of Health and identified for providers in the MMIS DME Provider Manual.
- Prior approval is required for artificial eyes as specified in the MMIS Ophthalmic Provider Manual.
- Program also includes coverage of orthotic appliances including hearing aids. All hearing aids require prior approval.
- 12d. Prior approval is required for certain special lenses and unlisted eye services as specified for providers in the MMIS Ophthalmic Provider Manual.
- 13a. Diagnostic Services (see 13.d Rehabilitative Services – Early Intervention).
- 13b. Screening Services (see 13.d Rehabilitative Services – Early Intervention).
- 13c. Preventive Services (see 13.d Rehabilitative Services – Early Intervention).
- 13d. Rehabilitative Services

(1) Directly Observed Therapy (DOT) – Clients must be assessed as medically appropriate for DOT based upon the client's risk of non-adherence to a medication regimen necessary to cure an active, infectious, potentially fatal disease process and to prevent the development and spread of an infectious, potentially fatal disease which may not respond to conventional therapies.

"Off-site" services shall be provided to developmentally disabled persons whose therapeutic requirements are most effectively satisfied in an appropriate environment that is specific to the treatment needs of the developmentally disabled individual. Such services shall be provided by persons authorized pursuant to NYCRR Title 14 Part 679. "Off-site" services shall not be provided at the location of a clinic certified by NYCRR Title 14 Part 679.

"Early Intervention" Services are provided to children who have or who are suspected of having a developmental delay or disability. These services, limited to EPSDT, which are provided by or on behalf of a county or the City of New York pursuant to an Individualized Family Services Plan (IFSP) include:

- | | | |
|-----------------------|---|---|
| 1. Screening | 6. Occupational Therapy | 11. Speech Pathology Services |
| 2. Evaluation | 7. Physical Therapy | 12. Assistive Technology Services |
| 3. Audiology | 8. Psychological Services | 13. Vision Services |
| 4. Nursing | 9. Social Work Services | 14. Collateral contacts for all of the above services |
| 5. Nutrition Services | 10. Anticipatory Guidance
(Special Instruction and Allied
Health Professional Assistance) | |

TN **03-37** Approval Date **JAN 23 2003**

Supersedes TN **02-39** Effective Date **JUL 01 2003**

OFFICIAL

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Type of ServiceMethod of Reimbursement

Prescribed Drugs

Reimbursement is the lowest of 1) the billing pharmacy's usual and customary price charged to the general public. 2) the upper limit if established by the Federal Government for specific multiple source drugs, plus a dispensing fee, or 3) the Estimated Acquisition Cost (EAC) established by State Department of Health, plus dispensing fee. EAC is average wholesale price less [ten] twelve percent. The dispensing fee for generic prescription drugs will be \$4.50 per prescription and for brand name prescription drugs will be \$3.50. The State Department of Health's prescription drug pricing service will determine whether a prescription drug is generic or brand name.

Compound Drugs: Reimbursement is determined by the State Department of Health at the cost of ingredients plus a dispensing fee of \$3.50 with an additional amount of \$0.75 as the compounding fee.

Exception: Physician Override: Reimbursement for those brand name drugs for which there are generic equivalent drugs for which reimbursement is not to exceed the aggregate of the specified upper limit for the particular drug established by the Centers for Medicare and Medicaid Services, plus a dispensing fee, will be paid at the lower of the estimated acquisition cost, plus a dispensing fee, or at the provider's usual and customary price charged to the general public when the prescriber has obtained a prior authorization for the brand-name drug, indicated that the brand name drug is required by placing "daw" (dispense as written) in the box located on prescription form and by writing "brand necessary" or "brand medically necessary" in his/her own handwriting on the face of the prescription.

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